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10/820,689

04/08/2004

James A. Tiscione

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10/18/2006

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EXAMINER

MAI, TRI M

ART UNIT

PAPER NUMBER

3781

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/820,689

Applicant(s)

TISCIONE, JAMES A.

Examiner

Tri M. Mai

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

Art Unit: 3781

1. Claims 1-4, and 10-13 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the claims of US patent 6412627. US '627 meet the claimed limitations of the case as claimed. With respect to the new limitation of the "adapted to engage and dispense at least two cards" does not impart any structure over the claims of US '627. Furthermore, it is noted that the plurality of ejection tab assemblies in the claims of US '627 is capable of eject at least two cards since the claim does not exclude that each of the U-shaped member to engage and dispense two card. Furthermore, it is noted that the card as claimed is capable of the intended use since the term "cards" is broad and does not excluding other thin cards, e.g. paper that can be stacked and dispensed within one slot of US '627.

2. Claims 1-4, and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Tiscione (6412627). Tiscione teaches the device as claimed. It is noted that the card as claimed is capable of the intended use since the term "cards" is broad and does not excluding other thin cards, e.g. paper that can be stacked and dispensed within one slot of the device in Tiscione. Furthermore, it is noted that the plurality of ejection tab assemblies in the Tiscione is capable of eject at least two cards since the claim does not exclude that each of the U-shaped member to engage and dispense two card.

3. Claims 7, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiscione et al. (6412627) in view of Holdener (4697698). It would have been obvious to one of ordinary skill in the art to provide to the each of the buttons with indicia as taught by Holdener, col. 3, ln. 10) to convey the desired information. Furthermore, It would have been obvious to one of ordinary skill in the art to provide to provide more than one indicia to provide the desired information needed and/or for added aesthetic purpose. Furthermore, it is noted that it is known

to provide more than one indicia for a button such a telephone button comprising numeral and textural indicia. Thus, It would have been obvious to one of ordinary skill in the art to provide more than one indicia to provide the desired information needed and/or for added aesthetic purpose.

4. Claims 8, 9, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiscione et al. in view of Oyamada (4881150). It would have been obvious to one of ordinary skill in the art to provide to provide a clip mounted to the case through slidable engagement with a groove, as shown in Fig. 3A of Oyamada (note portions 74a and 72a), to provide an alternative clip for the device.

5. Claims 5-6, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiscione in view of Vetter (6648038). Vetter teaches that it is known in the art to provide a step arrangement as shown in Fig. 2 for showing cards vertically. It would have been obvious to one of ordinary skill in the art to provide a step arrangement, i.e., a notch at the end of the U-shaped member for accommodating additional cards.

6. The arguments are not persuasive. With respect to Tiscione rejection, as set forth above, it is noted that the card as claimed is capable of the intended use since the term "cards" is broad and does not excluding other thin cards, e.g. paper that can be stacked and dispensed within one slot of the device in Tiscione. Furthermore, it is noted that the plurality of ejection tab assemblies in the Tiscione is capable of eject at least two cards since the claim does not exclude that each of the U-shaped member to engage and dispense two card.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tri M. Mai  
Primary Examiner  
Art Unit 3781

